

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JAMIE DOUGLAS	:	
	:	NO. 02-4556
v.	:	
	:	
SCHWEISS DISTRIBUTING, INC.	:	
and	:	
SCHWEISS BI-FOLD DOORS, INC.	:	
and	:	
CALDER DOOR & SPECIALITY COMPANY	:	

**DEFENDANT, SCHWEISS' STATEMENT OF
MATERIAL FACTS WHICH ARE NOT AT ISSUE**

1. The door as manufactured by Schweiss, had permanently affixed shields which required a saw for removal. (See Exhibits "E", "C", "D" and "F" attached to Defendant's Motion for Summary Judgment.)
2. The manuals accompanying the product advised the user not to remove the shields. (See Exhibit "B", "C" and "E" attached to Defendant's Motion for Summary Judgment.)
3. The shields were removed by an entity other than Defendant, Schweiss after delivery of the door to Modern Mushroom, Inc. and prior to the Plaintiff's accident. (See Exhibit "B" attached to Defendant's Motion for Summary Judgment and Plaintiff's deposition testimony.)
4. The accident would not have occurred if the shields had not been removed. (See Exhibit "D" attached to Defendant's Motion for Summary Judgment.)
5. O'Brien knew the purpose for the shields and the dangers associated with the removal of the shields. (See Exhibit "B" attached to Defendant's Motion for Summary Judgment.)

6. O'Brien knew of the purpose of a deadman's switch and was advised by virtue of receipt of the quotation document from Schweiss of its availability for purchase. (See Exhibit "B" attached to Defendant's Motion for Summary Judgment.)

7. O'Brien did not purchase the deadman's switch. (See Exhibit "B" attached to Defendant's Motion for Summary Judgment.)

Respectfully submitted,

KENT & McBRIDE, P.C.

By _____

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CERTIFICATE OF SERVICE

I, Anne M. Manero, Esquire, hereby certify that on this date, a true and correct copy of the Material Facts Which Are Not at Issue was served upon all counsel and/or parties by first class mail, postage prepaid:

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